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4003/008

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSIRA & LARRY GOLDBERG COINS &
COLLECTIBLES, a Nevada corporation,

Plaintiff,

v.

Civil Action No:

MARIA PAUL, an individual, and DOES 1
through 10, inclusive,

Defendants.

14 33485 NG

COMPLAINT FOR BREACH OF GUARANTY

Plaintiff, Ira & Larry Goldberg Coins & Collectibles, alleges:

INTRODUCTORY ALLEGATIONS

1. Plaintiff, Ira & Larry Goldberg Coins & Collectibles ("Plaintiff" or "Goldberg Coins"), is a corporation organized under the laws of the State of Nevada with its principal place of business in Los Angeles, California.
2. Plaintiff is informed and believes that Defendant Maria Paul is an individual residing at 14 Woodstock Drive, Framingham, Massachusetts.
3. Plaintiff is ignorant of the true names and capacities of Defendants sued as DOES 1 through 10, inclusive, and therefore, sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences alleged and that Plaintiff's damages were proximately caused by their conduct.

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JURISDICTION

4. This Court has original jurisdiction over this matter as the amount in controversy exceeds \$75,000, and there is diversity of citizenship between the parties. 28 U.S.C. §1332.

OPERATIVE FACTS

5. Plaintiff realleges and incorporates paragraphs 1 through 3 as though set forth in full. All allegations in this "Operative Facts" section are set forth on information and belief.

6. In 1999, Plaintiff began doing business with The Rarities Group, Inc. ("Rarities") and its two owners, Martin and Maria Paul. Goldberg Coins is in the business of auctioning rare coins, collectibles and memorabilia. Generally, speaking Goldberg Coins: (1) receives the items which it auctions on consignment from the owners of those items; (2) sells the items at auction; (3) receives the auction price, plus commissions and fees; and (4) remits the appropriate amount to the consignor.

7. Rarities was one of Goldberg Coins' larger customers, both as a purchaser and as a consignor of coins and memorabilia at auctions put on by Goldberg Coins.

8. Since approximately 1999, Maria Paul has been an owner, officer and director of Rarities. At all times during the relationship between Goldberg Coins and Rarities, Maria Paul was an active participant in the Rarities enterprise. In connection with the relationship between Rarities and Goldberg Coins, a Guaranty Agreement was entered into, effective June 29, 2001 by Martin and Maria Paul as Guarantors and Goldberg Coins as beneficiary. (A true and correct

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copy of the Guaranty Agreement is attached as *Exhibit A*.) The Guaranty Agreement was executed by Martin Paul on his and his wife's behalf and provides, in part:

This Guaranty Agreement is made effective as of June 29, 2001, by Martin & Maria Paul (the "Guarantor") of 14 Woodstock Drive, Framingham, MA 01701.

OBLIGATIONS: This Guaranty is given by the Guarantors to induce the Creditor to extend credit to the Debtor, and in consideration of the Creditor doing so, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and further acknowledging that the Creditor intends to rely on this Guaranty, the Guarantor absolutely and unconditionally guarantees prompt payment when due of all payments and liabilities of the Debtor to the Creditor, whether now existing or hereafter incurred.

This Guaranty shall remain in effect as long as there is outstanding debt on behalf of The Rarities Group.

(Exhibit A; emphasis in original)

9. Between 1999 through June 2002, Rarities and its two principals, Martin and Maria Paul, participated in numerous Goldberg Coins auctions. In connection with each such auction, the participants in the auction are provided a printed catalog of the items to be auctioned off at that particular sale. The catalogs were typically sent to Martin and Maria Paul approximately 15 to 30 days in advance of a particular auction, and each catalog included the Terms and Conditions which govern all auction sales. See *Exhibit B*.

10. On June 2 through 5, 2002, Goldberg Coins held two auctions at the Crown Plaza Beverly Hills Hotel in California (the "Auctions"). The Auctions were known as the "Pre-Long Beach Sale" and the "Goodman Sale." With respect to the Auctions, the Terms and Conditions of Sale in each catalog included the following:

By bidding in this sale, Purchaser personally unconditionally guarantees payment. If the Purchaser of a corporation, the officers, directors, and principals of the corporation hereby agree to personally unconditionally guarantee payment as part of the corporation's agreement to bid.

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11. During the Pre-Long Beach Sale and Goodman Sale, Rarities bid on approximately 450 lots of collectors coins and other memorabilia. At the conclusion of the Auctions, Rarities wrote checks to Goldberg Coins in payment for the items purchased, took possession of hundreds of thousands of dollars of coins, then stopped payment on the checks, and has since refused to pay for the coins. Rarities then resold the majority of the coins at a profit, yet has never remitted one dime to reimburse Goldberg Coins for the coins obtained at the Auctions. Conversely, Goldberg Coins has paid the persons who consigned the coins all monies due them.

12. On August 2, 2002, Goldberg Coins brought a lawsuit in California against Rarities, Martin Paul and Maria Paul for, among other things, breach of contract, fraud, breach of personal guarantee, and conversion (the "California Action"). Rarities never challenged jurisdiction in the California Action, but Martin and Maria Paul both sought to quash service of process based on the alleged absence of personal jurisdiction. Eventually, the court denied Martin Paul's motion to quash, but granted the motion to quash as to Maria Paul.

13. The California Action was very contentious and involved the expenditure of hundreds of thousands of dollars in attorneys' fees and related expenses. Shortly before the October 27 trial date in the California Action, Rarities and Martin Paul each filed for bankruptcy, thereby resulting in a stay of the California Action. Maria Paul has not filed for bankruptcy, but Martin and Maria Paul are purportedly going through divorce proceedings.

14. Given these circumstances, Goldberg Coins now brings the present action in Massachusetts against Maria Paul for breach of personal guaranty to recover any and all monies owing from Rarities to Goldberg Coins, including all sums due and owing in association with the Pre-Long Beach Sale and the Goodman Sale, plus the attorneys' fees, costs and other

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expenditures by Goldberg Coins in the California Action as well as the fees, costs and expenditures incurred in this action.

COUNT ONE

(For Breach of Guaranty Against Defendant Maria Paul and Does 1 through 10)

15. Goldberg Coins refers to paragraphs 1 through 13 herein and incorporates them as though set forth in full.

16. As a direct and proximate result of the acts described above, Goldberg Coins has been damaged in a sum which is not presently known but which is in excess of \$400,000. Goldberg Coins has performed all of its obligations under the auction agreements with Rarities, except such obligations which have been excused by Rarities' conduct. Goldberg Coins has further fully performed all of its obligations relating to the personal guaranty obligations referenced in paragraphs 6 through 8 herein. (collectively the "Guaranty.")

17. Maria Paul, and Does 1 through 10, have breached the Guaranty by failing to pay to Goldberg Coins the amounts due and owing on the Rarities account, plus all interest due and owing, attorneys' fees and costs. Although demand has been made upon said Defendants to honor the Guaranty, no part thereof has been paid.

18. Based on the monies owing to Goldberg Coins leading into the pre-Long Beach Sale and Goodman Sale, plus all purchases made and consignment credits earned by Rarities at the Auctions, Maria Paul, and Does 1 through 10, are presently liable to Plaintiff for the total balance due, inclusive of interest, attorneys' fees, and court costs in an amount in excess of \$400,000.

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WHEREFORE, Goldberg Coins prays for judgment as follows:

1. For an award of damages on Count One exceeding \$400,000, according to proof at trial;
2. For pre-judgment interest on the damages;
3. For an award of attorneys' fees and costs incurred in accordance with the contract terms between the parties;
4. For costs of suit incurred herein; and
5. For such other and further relief as the court may deem just and proper.

IRA & LARRY GOLDBERG COINS &
COLLECTIBLES,

By its attorneys,

M. Ellen Carpenter
M. Ellen Carpenter (#55414)
ROACH & CARPENTER, P.C.
24 School Street
Boston, Massachusetts 02108
(617) 720-1800

Dated: March 10, 2004

RUTAN & TUCKER, LLP
Richard K. Howell (State Bar No. 144241)
Jeff C. Risher (State Bar No. 204089)
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
Telephone: 714-641-5100

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FEB. 3, 2003 12:26PM BROWN & WOODS LLP

NO. 767

GUARANTY AGREEMENT

This Guaranty Agreement is made effective as of June 29, 2001 by, Martin & Maria Paul (the "Guarantor") of 14 Woodstock Drive, Framingham, MA 01701.

This Guaranty is being given to Ira & Larry Goldberg Coins & Collectibles, Inc. (the "Creditor") of 350 So Beverly Drive, Beverly Hills, CA 90212.

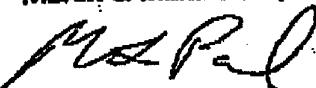
This Guaranty is being given for the benefit of the Guarantor and for The Rarities Group, Inc. (the "Debtor") of 14 Woodstock Dr., MA 01776-0911.

OBLIGATIONS: This Guaranty is given by the Guarantors to induce the Creditor to extend credit to the Debtor, and in consideration of the Creditor doing so, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and further acknowledging that the Creditor intends to rely on this Guaranty, the Guarantor absolutely and unconditionally guarantees prompt payment when due of all payments and liabilities of the Debtor to the Creditor, whether now existing or hereafter incurred.

This Guaranty shall remain in effect as long as there is outstanding debt on behalf of The Rarities Group.

Dated October 2, 2001.

Martin & Maria Paul, Guarantors



By: Martin Paul

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TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale set forth the terms of a public auction sale conducted in Beverly Hills, California by Ira & Larry Goldberg Coins & Collectibles, Inc., a Nevada corporation, California Auction Bond No. 3S95453300 (hereinafter, the "Auctioneer" or "Goldberg").

The Terms and Conditions of sale, the glossary, if any, and all other contents of this catalog are subject to amendment by us by the posting of notices or by oral announcements made during the sale.

By participating in any sale, you acknowledge that you are bound by these terms and conditions.

1 This catalog contains the description of property of multiple consignors (the "Consignors"), and may include consignments from Goldberg, its principals, and affiliated or related companies and their employees, officers, or principals. All persons seeking to bid, whether in person, through an agent or employee, or by telephone, facsimile or mail, must have a catalogue and register to bid at the auction, either by completing a registration card or by completing the bid sheet incorporated into the catalogue. The Purchaser acknowledges that an invoice describing a lot by number incorporates the catalogue by reference.

2 By submitting a bid, whether in person, by mail, by phone, by facsimile or through an employee or agent, the Bidder acknowledges (i) receipt of the catalogue, (ii) that the Bidder has read the Terms and Conditions of Sale and the descriptions for the lots on which they have bid, and (iii) that they agree to adhere to

these Terms and Conditions of Sale. **Acceptance of Bids:** Anyone wishing to place bids on lots who will not be attending the live auction must submit their bid(s) at least six (6) business hours prior to the auction session. Bidder is responsible for verifying said bids were received by Goldberg.

- 3** Each Bidder's determination of it bid should be based upon its own examination of the item(s), rather than the grade represented in this Catalogue or elsewhere. In any purchase or sale, the value of the item(s) is determined by the price. **THE PURCHASER HEREBY ASSUMES ALL RISKS OF VALUATION CONCERNING ANY AND ALL PURCHASES.** All Floor Bidders acknowledge that the Auctioneer can decline to accept bids from the a Floor Bidder who is known to have not, in fact, examined the lot prior to the sale.
- 4** All material shall be sold in separate lots to the highest Bidder as determined by Auctioneer. If any dispute arises during or immediately after the sale of a lot, Auctioneer shall have the right to rescind the lot offered and put the lot up for sale again. In all cases, Auctioneer's decision shall be final. For the protection of any Mail Bidder, no "unlimited" or "buy" bids will be accepted. Goldberg shall have the right in its sole and absolute discretion to reject any such bid received. When identical bids are received for a lot, preference is given to the first bid received as determined by the Auctioneer. A mail bid will take precedence over an identical floor bid; a Floor Bidder must bid higher than the highest mail bid to be awarded any lot.
- 5** Bids must be for an entire lot and each lot constitutes a separate sale.

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No lot will be broken up unless the Auctioneer determines otherwise. Lots will be sold in their numbered sequence unless Auctioneer directs otherwise.

6 Due to the fungibility of the items sold, all lots may carry a reserve. For purposes of these Terms and Conditions of Sale, a reserve means a confidential price below which the Auctioneer will not sell an item or will re-purchase on behalf of the Consignor or for the account of Goldberg.

7 The Auctioneer may open the bidding on any lot by placing a bid on behalf of the seller; a Bidder by mail, telephone or facsimile; or any other participant in the sale. The Auctioneer may also bid on behalf of the Consignor up to the amount of the reserve, by (i) accepting bids from floor agents on behalf of the Consignor, or any affiliated or related company of the Auctioneer or the Consignor; (ii) by placing successive or consecutive bids for any lot; or (iii) by placing bids in response to other Bidders.

8 Auctioneer reserves the right, at his sole discretion, (i) to accept or decline any bid, (ii) to accept or decline any challenge to any bid or bidding increment, (iii) to reduce any mail bid received, (iv) to open the bidding of a lot at any level deemed appropriate by the Auctioneer, and (v) to determine the prevailing bid. Bids will not be accepted from persons under eighteen (18) years of age without a parent's written consent containing an acknowledgment that the Terms and Conditions of Sale herein and indicating their agreement to be bound thereby on behalf of the Bidder.

9 It is unlawful and illegal for Bidders to collude, pool, or agree with another bidder to pay less than the fair value for a lot. Bidders in the sale acknowledge that the law provides for substantial penalties in the form of treble damages and attorneys' fees and costs for those who violate these provisions.

10 Goldberg reserves the right to withdraw any lot at any time, even after the hammer has fallen, until the Purchaser has taken physical possession of the lot. No Consignor who has registered to bid at the sale (or at any other time unless otherwise provided in the consignment agreement), or any Purchaser or prospective Bidder shall have a right to claim any consequential damages if a lot is withdrawn, even after the sale.

11 **GOLDBERG IS NOT RESPONSIBLE FOR ERRORS IN BIDDING.** A Bidder should make certain to bid on the correct lot and that the bid is the maximum (plus the fifteen percent (15%) Buyer's Commission) that he or she is willing and able to pay. Since other Bidders (by mail, facsimile and in person) will be present, and since a re-offering could damage the momentum of the sale, once the hammer has fallen and the Auctioneer has announced the winning Bidder, such Bidder is unconditionally bound to pay for the lot, even if the Bidder has made a mistake.

12 **THIS IS NOT AN APPROVAL SALE.** All lots sold to the highest Bidder as determined by Auctioneer are final. Floor Bidders are encouraged to carefully examine all lots which they are interested in purchasing because all sales of items viewed by Purchasers in advance of a sale, even if the sale is by mail, telephone or facsimile, and all bids placed upon by the Floor Bidders, together with all those presenting Goldberg with a resale certificate, out of state resale certificate, or similar evidence that they are acting as a dealer ARE FINAL AND SUCH ITEMS MAY NOT BE RETURNED. If the description of any lot in the catalogue is incorrect, the lot is returnable if returned within five (5) calendar days of receipt, and received by Goldberg no later than twenty-one (21) calendar days after the sale date. No return or refund of any auction lot will be considered except by reason of lack of authenticity, unless otherwise provided in these Terms and Conditions of Sale. All lots are sold under the condition that any claims challenging grading, authenticity or methods of manufacture must be made in writing within five (5) calendar days of receipt of material. All disputed lots must be returned intact as received in their original, sealed and unopened container. Late remittance or removal of any lot from its original container constitutes just cause for revocation of all return privileges for any reason.

13 All prospective Bidders who are allowed the opportunity to examine lots prior to the sale shall personally assume all responsibility for any damage they cause in so doing. Goldberg shall have sole discretion in determining the value of the damage caused, which shall be promptly paid by the prospective Bidder.

14 Title to any lot remains with Consignor, any secured party of the Consignor, or assignee of Consignor, as the case may be, until the lot is paid for in full by Purchaser. Goldberg reserves the right to require payment in full before delivering any lot to the successful bidder.

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15 It is the Purchaser's responsibility and obligation to have the lots fully insured while in his or her possession. Purchaser assumes any and all RISK OF LOSS once the lot(s) is in Purchaser's possession.

16 A BUYER'S COMMISSION OF FIFTEEN PERCENT (15%) on each individual lot will be added to all purchases made by all Purchasers, except Consignors, regardless of Purchaser's affiliation with any group or organization, and will be based upon the total amount of the final bid.

17 Pursuant to a separate agreement with Auctioneer, Consignors or their agents may be permitted to bid on their own lots in the sale and may receive a rebate commission in whole or in part if successful. Under some circumstances, Goldberg may agree with a Consignor (i) not to require the Consignor to pay for all or part of any items bid upon or re-purchased by the Consignor; (ii) when or where an advance has been made, to have the Consignor pay an agreed upon difference to Goldberg; or (iii) to allow an offset against other transactions with Consignor. Where the Consignor has re-purchased a lot and the lot is either returned to the Consignor or otherwise dealt with or disposed of in accordance with the Consignor's direction, or pursuant to contractual agreement, Goldberg reserves the right to so note in the prices realized or to omit a price from the price realized. Every Consignor who registers to bid in the sale, whether to "protect" a lot, or for any other purpose, agrees to all other Terms and Conditions of Sale per this agreement.

18 Unless otherwise agreed in writing, auction sales are strictly cash in U.S. Funds payable through a bank in the United States. Contact Goldberg for wiring instructions before sending a wire. Goldberg reserves the right to decline to release lots for which funds have not yet cleared. No credit card purchases will be accepted. On any cash transaction or series of transaction exceeding \$10,000, Treasury Form 8300 will be filed. Lots must be paid for on the earlier of receipt of invoice or delivery.

19 Purchaser agrees to promptly pay, on demand, any sales tax, or any other tax, if required by law to be collected, postage, handling, and insurance plus the fifteen percent (15%) Buyer's Commission, and any other taxes required by law to be charged or collected, together with any interest or penalty that may be assessed.

20 Purchaser grants to Goldberg or its assigns the right to offset any sums due, or found to be due Purchaser by Goldberg, and to make such offset from any past, subsequent or future consignment, or items acquired by Purchaser in possession or control of Goldberg or from any sums due to Purchaser by Goldberg. Purchaser further grants Goldberg a purchase money security interest in such sums or items to the extent applicable, and agrees to execute such documents as may be reasonably necessary to grant Goldberg such security interest. Purchaser agrees that Goldberg and its assigns shall be a secured party with respect to items bought by Purchaser and in the possession of Goldberg, to the extent of the maximum indebtedness, plus all accrued expenses, until the indebtedness is paid.

21 By bidding in this sale, Purchaser personally and unconditionally guarantees payment. If the Purchaser is a corporation, the officers, directors, and principals of the corporation hereby agree to personally and unconditionally guarantee payment as part of the corporation's agreement to bid. The authorized representative of any corporate Purchaser who is present at the sale shall provide Goldberg or its agent, prior to the commencement of the bidding (or at the time of registration), with a statement signed by each principal, director and officer that they each personally and unconditionally guarantee any payment due Goldberg.

22 No bids will be accepted from Roe Bidders and Mail Bidders who have not previously established credit with Goldberg unless they first (i) furnish satisfactory credit references or (ii) deposit at least twenty-five percent (25%) of their total bids for the session(s), or such other amounts as Goldberg may require, in its sole and absolute discretion. Any deposits made pursuant to this paragraph will be applied to such Bidders purchases. Any unused portion of such deposit will be promptly refunded upon clearance of the funds.

23 On any accounts past due, Goldberg reserves the right to extend credit and impose periodic charges, pursuant to these Terms and Conditions of Sale or as set forth in the Purchaser's invoice. If the auction invoice is not paid in full when due, the unpaid balance will earn interest at the rate of one and-one-half percent (1 1/2%) per month until paid. In the event this interest rate exceeds the interest permitted by law, the same shall be adjusted to the maximum rate permitted by law. Goldberg further reserves the right to resell the merchandise, or to have an affiliated

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related company do so. Purchaser agrees to pay all reasonable attorney's fees, court costs and other collection costs incurred by Goldberg or any affiliated or related company to collect past due invoices, including reasonable costs of any resale of the merchandise. Purchaser also agrees to pay the difference between the resale price and any previous disbursements. Any excess money realized from the resale shall first be applied to pay Goldberg its standard fees and commissions for a sale and the remainder, if any, will be paid to the Purchaser. Goldberg reserves the right to assign its interest to any third party.

24. Goldberg may at its sole and absolute discretion, make loans or advances to Consignors and/or prospective Purchasers.

25. The Auctioneer may bid for his or its own account at any auction (even though it may not be required to pay a Buyer's Commission, or other charges that other Purchasers may be required to pay) and may have access to information concerning the lots and items contained therein that is not otherwise available to the public. Any conflict of interest or claim of competitive advantage resulting therefrom is expressly waived by all participants in the sale.

26. If a dispute arises concerning ownership of a lot that has been bid upon, Goldberg reserves the right to commence a statutory interpleader proceeding at the expense of the Consignor and successful Purchaser and any other applicable party, and in such event shall be entitled to its reasonable attorney's fees and costs.

27. In the event of a successful challenge to the title to any goods pur-

chased, Goldberg agrees to reimburse any Purchaser in an amount equal to the successful bid price actually paid by Purchaser at auction plus any Buyer's Commission actually paid, in full and complete satisfaction of all claims, which once tendered by Goldberg, releases and releases Goldberg from any responsibility whatsoever to the Purchaser, even if the instrument is not cashed or is returned.

28. Goldberg reserves the right to postpone the auction sale or any session thereof for a reasonable period of time for any reason whatsoever, and no Bidder or prospective Bidder shall have any claim as a result thereof, including consequential damages.

DISCLAIMERS AND WARRANTIES

ALL ITEMS OFFERED IN THIS CATALOGUE ARE GUARANTEED TO BE GENUINE.

THIS IS A LIMITED WARRANTY THAT THE ITEM SOLD IS NOT COUNTERFEIT, THAT ITS DATE OR MINTMARK HAS NOT BEEN ALTERED AND THAT THE COIN HAS NOT BEEN "REPAIRED."

29. Any other warranty is expressly disclaimed; Goldberg offers no representation that a numismatic item has or has not been cleaned; that any toning is natural or artificial; that any coin will meet the standards or grade of any independent grading service; that any item has a particular provenance or pedigree, or that a numismatic item is struck or produced in a particular style. Any statement concerning such matters reflects an opinion only. Questions regarding the minting of a coin as a proof or as a business strike relate to the method of manufacture and not to authenticity.

a. The descriptions contained herein represent the Cataloger's good faith opinion, or the opinion of an independent grading service, as to the state of preservation and strike. When a grade from an independent grading service is utilized, the information is provided strictly for the convenience of the bidder by mail, telephone or facsimile. Bidders and Purchasers acknowledge that (i) grading is an art, not a science; (ii) the grades contained in the catalogue represent the opinion of the Auctioneer based upon its experience; (iii) it is possible that two people will not always grade the same items alike; and (iv) as market conditions change, grading standards change, and will most likely continue to do so in the future.

NO WARRANTY, WHETHER EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, IS MADE WITH RESPECT TO ANY GRADE DESCRIPTION, WHICH IS MERELY AN OPINION THAT IS LIKELY TO DIFFER, EVEN AMONG EXPERTS. PURCHASER HEREBY ASSUMES ALL RISKS CONCERNING AND RELATED TO THE GRADING OF A LOT BY AN INDEPENDENT GRADING SERVICE.

b. Grading or condition of rare coins may have a material effect on the value of the item(s) purchased; and the opinion of third parties (including independent grading services) may differ from the independent grading service's opinion or interpretation of Goldberg. Goldberg shall not be bound by any prior or subsequent opinion, determination or certification by any independent grading service.

c. All oral and written statements made by Goldberg and its employees (including affiliated and related

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ments made by Purchaser as liquidated damages, it being recognized that actual damages may be speculative or difficult to compute, or (b) sell some or all of the property and (some or all other property of the Purchaser held by Goldberg, if Goldberg deems necessary), in a quantity sufficient in the opinion of Goldberg to satisfy the indebtedness, plus all accrued charges. More than one such sale may take place at the option of Goldberg. Such sale may take place without notice to Purchaser. If Goldberg gives notice, it shall be by U.S.P.S. Certified Mail, Return Receipt requested to the address utilized on the Bid Sheet, Auction Consignment and Security Agreement or other address known to Goldberg. Such sale will be at Goldberg standard commission rates at public or private sale, within California, or at another location outside of California to be determined by Goldberg. At the time of sale the defaulting party shall not bid nor be permitted to bid. The proceeds shall be applied first to the satisfaction of any damages occasioned by Purchaser's breach, and then to the payment of any other indebtedness owing to Goldberg, including without limitation, commissions, handling charges, the expenses of both sales, reasonable attorneys' fees and costs; collection agency fees and costs and any other costs or expenses incurred thereunder. If a lot or item is not paid for, and is sold by Goldberg for Purchaser's account, in accordance with the Uniform Commercial Code, Goldberg shall not be required to account to the Purchaser for any excess proceeds. Purchaser shall remain liable to Goldberg if the proceeds of such sale or sales is insufficient to cover the indebtedness. If other property of Purchaser

is also sold, any excess of proceeds will be remitted to the Purchaser after first deducting the expenses set forth above. If Purchaser fails to remit sums due to Goldberg, Purchaser grants to Goldberg a lien with respect to such sum, with interest to accrue thereon at the legal rate, until actually paid, which lien shall apply against any property of Purchaser, including any future goods of Purchaser coming into possession of Goldberg. To the extent permitted by law, Purchaser hereby waives all the requirements of notice, advertisement and disposition of proceeds required by law.

entered into with Goldberg, including but not limited to, reasonable attorney fees and costs incurred before legal action, if any, is commenced. The Bidder/Purchaser further agrees that in any litigation or other proceeding based upon, arising out of or related to these Terms and Conditions of Sale, the Bidder/Purchaser shall pay to Goldberg its attorney fees and other expenses and costs incurred in connection with the litigation or other proceeding if Goldberg is the prevailing party.

- 36 These Terms and Conditions of Sale, and the auction shall be construed and enforced in accordance with, and governed by, the laws of the State of California, whether or not the auction is and these Terms and Conditions of Sale are fully performed in California.
- 37 Purchaser acknowledges and agrees that the competent courts of the State of California shall have exclusive jurisdiction over any dispute(s) arising hereunder, and Purchaser hereby agrees that any dispute arising hereunder shall be litigated exclusively in the courts of the State of California, and not elsewhere, regardless of any party's current or future residence or domicile. Purchaser further agrees that venue shall be in the Superior Court of Los Angeles, in the State of California.
- 38 ATTORNEY FEES AND COSTS. The Bidder/Purchaser shall pay to Goldberg all costs and expenses of collection of amounts due herein, or to otherwise enforce any or all provisions of these Terms and Conditions of Sale, the subject matter of these Terms and Conditions of Sale, or any other agreement